IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 18856 OF 2007

Dated : September 6, 2007

Between:

The Secretary to Government to the
Panchayath Raj and Rural Development,
Secretariat, Hyderabad and another

Petitioners

AND

R.Venkataram Narasaiah and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 18856 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of certiorari to call for the records

relating to the order, dated 23.08.2006 passed in M.A. No. 1753 of 2006 in O.A. No. 6660 of 1998 by the Andhra Pradesh Administrative Tribunal, Hyderabad, and to quash the same being erroneous, illegal and arbitrary, the petitioners filed this writ petition.

The first respondent herein filed the above O.A. before the Tribunal assailing action of the first petitioner in issuing the Memo No.26509/EV/A3/97-3 dt. 2.4.1998 communicated to the first respondent by the second respondent vide No.B1/S.F/98 dated 5.8.1998, whereby his request to appoint him in the Selection Grade post of Typist, was rejected, as illegal and arbitrary.

Few facts, that are necessary for disposal of this writ petition, are that the first respondent was appointed as Typist in November, 1993 along with others and joined in service on 22.11.1963 and his probation was declared with effect from 28.12.1965. After conversion as LDC, he was promoted as UDC on 31.1.1984 and as Superintendent on 9.3.1998. The first respondent was appointed as Selection Grade Typist with effect from 1.01.1972 and was paid arrears of pay, which was objected to by the Audit Officer, Local Fund (Accounts), Warangal, during the course of audit on the ground that such payment is highly irregular without specific sanction of the Government, more particularly in view of GO Ms. No. 4 dated 6.1.1986, which says that one must represent

to the Government for appointment to the Selection Grade Post before 30.06.1986. As such the proposal for appointment of the first respondent to the Special Grade Post, was rejected by the Government in Memo No. 26509/Estt.V/A3/97-3 dated 2.4.1998 and the first respondent was called upon to remit the arrears of Rs.31,764/-, which were drawn and paid to him earlier.

Aggrieved thereby, the first respondent filed the above O.A. contending that he is senior to one B. Venugopal and he also submitted a representation dated 30.12.1983 to the Chairman, Zilla Parishad, Warangal, through the Head Master, Zilla Parishad High School, Ganpur, seeking sanction of Selection Grade Scale in the cadre of Typist on par with the said B. Venugopal. Along with the O.A., the first respondent also filed certain other Miscellaneous Applications.

The Tribunal observed that the first respondent filed representation dated 30.12.1983 well before the cut off date i.e. 30.6.1986, as prescribed in the Rules. It is observed that even if the sanction of the Government is required, in each a case what was sanctioned by the Zilla Parishad to the first respondent, cannot be taken away by the Government after six years on the ground that first respondent did not file his representation within time. The Tribunal, having considered the issue elaborately, allowed the O.A. Consequently, the first respondent filed MA No.

1753 of 2006 seeking a direction to implement the order passed in the above O.A. and for releasing all the benefits to him. The Tribunal by order dated 23.8.2006, which is also impugned in this writ petition, allowed the Miscellaneous Application.

Aggrieved thereby, the present writ petition is filed mainly contending that the amount of arrears was paid without there being specific sanction from the Government, which the Tribunal, has failed to see and if the same is not recovered, it amounts to unjust enrichment of the first respondent.

As observed by the Tribunal, after six long years, what is sanctioned to the first respondent by the DDO, Zilla Parishad, even in the absence of specific sanction of the Government, though the first respondent has submitted representation to appoint him to the Special Grade Scale much earlier to the cut off date as fixed in the GO Ms. No.4 dated 6.1.1986, cannot be taken away, by a simple stroke of the Audit Officer. It is also observed by the Tribunal that when similar relief was granted to other employees, no objection was taken by the Local Fund Audit Officer. Above all, before passing such an order the first respondent was not put on notice when recovery of the amount is sought from him, after six long years. Therefore, we are of the considered view that the Tribunal has rightly allowed the O.A.

Consequently, we do not see any justifiable ground to interfere with the impugned order. The Writ Petition fails and is accordingly dismissed at the stage of admission. No order as to cost.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

September 6, 2007
MAS